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§ 216.8 Availability of proposed Manual directives identified for formal public review.

As a minimum, review copies of proposed Manual directives determined to be of substantial public interest or expected controversy shall be available in the Forest Supervisor's Office and District Rangers' Offices when National Forest proposals are involved; in the Regional Office and Forest Supervisors' Offices when regional proposals are involved; and in Regional Offices and National Headquarters when national proposals are involved. When Manual directives involve Forest Service Research or State and Private Forestry programs, review copies shall be available at comparable administrative offices.

PART 218—PROJECT-LEVEL PREDECISIONAL ADMINISTRATIVE REVIEW PROCESS

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Subpart A—General Provisions

§ 218.1 Purpose and scope.

This subpart establishes a predecisional administrative review (hereinafter referred to as “objection”) process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans documented with a Record of Decision or Decision Notice, including proposed authorized hazardous fuel reduction projects as defined in the Healthy Forests Restoration Act of 2003 (HFRA). The objection process is the sole means by which administrative review of qualifying projects.

(a) This subpart A provides the general provisions of the objection process, including who may file objections to proposed projects and activities, the responsibilities of the participants in an objection, and the procedures that apply for review of the objection.

(b) Subpart B of this part includes provisions that are specific to proposed projects and activities implementing land and resource management plans documented with a Record of Decision or Decision Notice, except those authorized under the HFRA.

(c) Subpart C of this part includes provisions that are specific to proposed hazardous fuel reduction projects authorized under the HFRA.

§ 218.2 Definitions.

The following definitions apply to this part:

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Address. An individual's or organization's current physical mailing address. An email address alone is not sufficient.

Authorized hazardous fuel reduction project. A hazardous fuel reduction project authorized by the Healthy Forests Restoration Act of 2003 (HFRA).

Decision notice (DN). A concise written record of a responsible official's decision when an environmental assessment and a finding of no significant impact (FONSI) have been prepared (36 CFR 220.3). The draft decision notice made available pursuant to §218.7(b) will include a draft FONSI unless an environmental impact statement is expected to be prepared.

Entity. For purposes of eligibility to file an objection (§218.5), an entity includes non-governmental organizations, businesses, partnerships, state and local governments, Alaska Native Corporations, and Indian Tribes.

Environmental assessment (EA). A concise public document for which a Federal agency is responsible that provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact (FONSI), aids an agency's compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9(a)).

Environmental impact statement (EIS). A detailed written statement as required by Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1508.11).

Forest Service line officer. The Chief of the Forest Service or a Forest Service official who serves in the direct line of command from the Chief.

Lead objector. For an objection submitted with multiple individuals and/or entities listed, the individual or entity identified to represent all other objectors for the purposes of communication, written or otherwise, regarding the objection.

Name. The first and last name of an individual or the complete name of an entity. An electronic username is insufficient for identification of an individual or entity.

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National Forest System land. All lands, waters, or interests therein administered by the Forest Service (36 CFR 251.51).

Newspaper(s) of record. Those principal newspapers of general circulation annually identified in a list and published in the FEDERAL REGISTER by each regional forester to be used for publishing notices of projects and activities implementing land management plans.

Objection. The written document filed with a reviewing officer by an individual or entity seeking predecisional administrative review of a proposed project or activity implementing a land management plan, including proposed HFRA-authorized hazardous fuel reduction projects, and documented with an environmental assessment or environmental impact statement.

Objection filing period. The period following publication of the legal notice in the newspaper of record of an environmental assessment and draft Decision Notice, or final environmental impact statement and draft Record of Decision, for a proposed project or activity during which an objection may be filed with the reviewing officer (§218.7(c)(2)(iii) and §218.6(a) and (b)). When the Chief is the responsible official the objection period begins following publication of a notice in the FEDERAL REGISTER (§218.7(c)(2)(iii)). The objection filing period closes at 11:59 p.m. in the time zone of the receiving office on the last day of the filing period (§218.6(a)).

Objection process. The procedures established in this subpart for predecisional administrative review of proposed projects or activities implementing land management plans, including proposed HFRA-authorized hazardous fuel reduction projects.

Objector. An individual or entity filing an objection who submitted written comments specific to the proposed project or activity during scoping or other opportunity for public comment. The use of the term “objector” applies to all persons or entities who meet eligibility requirements associated with the filed objection (§218.5).

Record of decision (ROD). A document signed by a responsible official recording a decision that was preceded by

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preparation of an environmental impact statement (EIS) (see 40 CFR 1505.2).

Responsible official. The Agency employee who has the authority to make and implement a decision on a proposed action subject to this part.

Specific written comments. Written comments are those submitted to the responsible official or designee during a designated opportunity for public participation (§218.5(a)) provided for a proposed project. Written comments can include submission of transcriptions or other notes from oral statements or presentation. For the purposes of this rule, specific written comments should be within the scope of the proposed action, have a direct relationship to the proposed action, and must include supporting reasons for the responsible official to consider.

§ 218.3 Reviewing officer.

(a) The reviewing officer is the U.S. Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this part. For project or activity proposals made below the level of the Chief, the reviewing officer is the Forest Service line officer at the next higher administrative level above the responsible official, or the respective Associate Deputy Chief, Deputy Regional Forester, or Deputy Forest Supervisor with the delegation of authority relevant to the provisions of this part. When a project or activity proposal is made by the Chief, the Secretary of Agriculture or Under Secretary, Natural Resources and Environment is the reviewing officer.

(b) The reviewing officer determines procedures to be used for processing objections when the procedures are not specifically described in this part, including, to the extent practicable, such procedures as needed to be compatible with the administrative review processes of other Federal agencies, when projects are proposed jointly. Such determinations are not subject to further administrative review.

§ 218.4 Proposed projects and activities not subject to objection.

Proposed projects and activities are not subject to objection when no timely, specific written comments regarding the proposed project or activity (see §218.2) are received during any designated opportunity for public comment (see §218.5(a)). The responsible official must issue a statement in the Record of Decision or Decision Notice that the project or activity was not subject to objection.

§ 218.5 Who may file an objection.

(a) Individuals and entities as defined in §218.2 who have submitted timely, specific written comments regarding a proposed project or activity that is subject to these regulations during any designated opportunity for public comment may file an objection. Opportunity for public comment on a draft EIS includes request for comments during scoping, the 40 CFR 1506.10 comment period, or other public involvement opportunity where written comments are requested by the responsible official. Opportunity for public comment on an EA includes during scoping or any other instance where the responsible official seeks written comments.

(b) Federally-recognized Indian Tribes and Alaska Native Corporations are also eligible to file an objection when specific written comments as defined in §218.2 are provided during Federal-Tribal consultations.

(c) Comments received from an authorized representative(s) of an entity are considered those of the entity only. Individual members of that entity do not meet objection eligibility requirements solely on the basis of membership in an entity. A member or an individual must submit timely, specific written comments independently in order to be eligible to file an objection in an individual capacity.

(d) When an objection lists multiple individuals or entities, each individual or entity must meet the requirements of paragraph (a) of this section. If the objection does not identify a lead objector as required at §218.8(d)(3), the reviewing officer will delegate the first eligible objector on the list as the lead objector. Individuals or entities listed